

WRIT PETITION NO. 176 OF 2004.

Mumbai Mazdoor Sabha,
4th Floor, Kennedy House,
Goregaonkar Road,
Mumbai-400 007.

... Petitioner.

Versus

1. M/s. Syngenta India Ltd.,
Santa Monica Plant,
Corlim, Ilhas-Goa.
2. M/s. Ciba Speciality Chemicals,
Santa Monica Plant,
Corlim, Ilhas-Goa.

... Respondents.

Mr. S. Shaikh with Mr. V. Menezes, Advocates for the
Petitioner.

Mr. C. Pawaskar with Mr. S.D. Padiyar, Advocates for the
Respondent No. 1.

Mr. G. Sardessai, Advocate for the Respondent No. 2.

Coram : S.A. BOBDE, J.

Date : 8th July 2004.

ORAL ORDER.

This petition is directed against the refusal of interim relief by the Industrial Tribunal, Panaji. The petitioner Union had applied for interim relief in proceedings in which the respondent companies had prayed for an Award in terms of the settlement under Section 18 of the Industrial Disputes Act arrived at with a rival Union Kamgarancho Ekvott.

2. The petitioner is a Union representing a very small minority of workmen in the respondent 1 and 2 companies. In the respondent no. 1 company, the

petitioner Union has 50 out of 310 workers as members. In addition, the petitioner claims to have 54 temporary workers. In the respondent no. 2 company, the petitioner claims to have 1 out of 70 workers as members.

3. The respondent companies have sought an Award in terms of the settlement arrived at by them with the rival Union Kamgarancho Ekvott. Separate settlements of different dates have been arrived at by both the companies. Under the settlement, the companies have granted certain monetary benefits vide Clause 33 to the workers represented by the rival Union Kamgarancho Ekvott. This benefit has been extended to those who have signed the declaration as per the specimen letter annexed and marked as Annexure 6. The said letter at Annexure 6 requires an employee to unconditionally accept the terms and conditions of the settlement as a package deal in full and final settlement of all the demands including those pending before the Industrial Tribunal, Panaji, in Reference No. IT/38/95. It also requires the employee to make a statement that he is a member of Kamgarancho Ekvott.

4. Naturally, the petitioner Union, who is a signatory to that settlement, is not willing to make a statement as required in the said letter, particularly

the statement that the recipient of the benefits under the settlement belong to the rival Union Kamgarancho Ekvott. Undoubtedly, the members of the petitioner Union may be within their right in declining to make a statement as required by the employers. But the question that arises is, while declining to make a statement of unconditional settlement of disputes and that they belong to the rival Union, can the members of the petitioner Union claim benefits under the settlement, particularly, when the settlement grants certain benefits conditional upon the workmen of that Union signing a declaration as required by the respondent companies? It is towards the purpose of obtaining the benefits of the Union without signing the declaration that the petitioners applied for interim relief to the Tribunal and made the following prayers:-

"(a) That this Hon'ble Tribunal be pleased to direct the First Party Company to extend the benefits of the Settlement dated 20-08-2000 entered into and between the Union, namely Kamgarancho Ekvott & First Party Company.

(b) That this Hon'ble Tribunal be pleased to restrain the First Party Company from getting any declaration signed from the workmen and further no deductions be allowed to be made from the benefits of settlement so extended towards any alleged donations/levy/subscription payable to the Union, viz., Kamgarancho Ekvott and/or without any obligations.

(c) Any other or further relief as the facts and circumstances of the case

may require."

This prayer for interim relief has been rejected by the Industrial Tribunal pending decision of the main dispute. The Industrial Tribunal has relied on the decisions of this Court in the case of **Tata Consulting Engineers and Associates Staff Union v. Tata Consulting Engineers & Anr.**, 2002 1 CLR 701 and **Tata Press Ltd. v. Tata Press Employees' Union and others**, 1994 (69) F.L.R. 426 and rejected the prayer for interim relief on the ground that the petitioner Union must accept the settlement as a whole and cannot pick and choose the clauses of the settlement. The Industrial Tribunal has declined to extend the benefits of the settlement dated 30th August 2000 entered into by the Kamgarancho Ekvott and the respondent companies to the workmen who are members of the petitioner Union without any declaration signed by the workmen.

5. Mr. Shaikh, the learned counsel for the petitioner, submitted that the Industrial Tribunal ought to have granted the interim relief in view of the fact that it is the respondent companies' case that a settlement is binding on all workmen and, therefore, the benefits under the settlement could have been easily extended by the Industrial Tribunal to the workmen who are members of the petitioner Union. This submission cannot be accepted in the present case particularly in view of the fact that the Industrial Tribunal has found

that the benefits have been extended to the workmen upon their signing a declaration as contained in Annexure 6 to the settlement. The settlement as observed by this Court in the two cases referred to above, cannot be truncated and, that too, by an interim order so as to require the respondent companies to extend the monetary benefits to the members of the Union without calling upon them to sign a declaration, which is an integral part of the settlement. It makes no difference as contended by the learned counsel for the petitioner that the members of the petitioner Union are willing to perform all other obligations. The learned counsel for the petitioner also relied on a decision in the case of **Grindwell Norton Limited v. Grindwell Norton Workers Union and others**, 1987 (54) F.L.R. 727. In that case, however, the Industrial Tribunal has granted the interim relief based on a settlement and this Court upheld the grant of interim relief. Moreover, that case arose in a different set of circumstances. As rightly contended by the learned counsel for the respondent no. 1 such an interim order would create discrimination amongst workers. There would be the majority of workers, who would have received the benefits by signing the declaration; and another set, created by an interim order, who had not signed the declaration.

6. Having regard to the circumstances in this

case, I am of view that the petitioner Union has not demonstrated any error of law apparent from the face of the record or jurisdictional error in exercise of jurisdiction by the Industrial Tribunal.

7. In the circumstances, there is no merit in the petition, which is, hereby, dismissed. Having regard to the nature of the controversy involved, the Industrial Tribunal is directed to decide the matter as expeditiously as possible and in any case not later than one year from today.

(S.A. BOBDE)
JUDGE.

ed's.